

This letter discusses issues related to tangible personal property purchased for use or consumption within an enterprise zone in the process of manufacturing or assembling by certain business enterprises certified by the Department of Commerce and Community Affairs. 86 Ill. Adm. Code 130.1951(g). (This is a GIL.)

August 21, 2007

Dear Xxxxx:

This letter is in response to your letter dated June 20, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am requesting a Private Letter Ruling on the application of the IL Vehicle Use Tax (§ 625 ILCS 5/3-1001) to myself, an Active Duty Servicemember stationed at Great Lakes Naval Station in North Chicago, Illinois (see attached orders). From January, 2005 through and including May 8, 2007, I was a legal resident of the State of Florida.

On May 8, 2007, I titled in Illinois a 2000 Mazda Protégé and was required to complete RUT-50 (see attached). The agents at the vehicle registration station refused to complete either my title application or registration if I did not submit a RUT-50 which listed my address as an IL address and pay the appropriate fee.

Before I completed the form, I presented my orders and asked about application of the Servicemembers' Civil Relief Act (SCRA). In pertinent part, the SCRA states: § 571. Residence for tax purposes (c) Personal property. (1) Relief from personal property taxes. The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders. The vehicle registration agent's response was that this Act does not apply to me.

I do not believe the tax applies to me because § 625 ILCS 5/3-1001 is levied specifically on the use, 'in this State,' of motor vehicles. The Vehicle Use Tax Act states: § 625 ILCS 5/3-1001. [Tax imposed; rate; abatement] Sec. 3-1001. A tax is hereby imposed on the privilege of using, in this State, any motor vehicle as defined in Sect on 1-146 of this Code [625 ILCS 5/1-146] acquired by gift, transfer, or purchase, and having a year model designation preceding the year of application for title by 5 or fewer years prior to October 1, 1985 and 10 or fewer years on and after October 1, 1985 and prior to January 1, 1988. On and after January 1, 1988, the tax shall apply to all motor vehicles without regard to model year.

However, the SCRA exempts my personal property from this specific type of taxation because my property is deemed not to be located or present in, or to have a situs for taxation in this state. The SCRA has statutorily deemed that I have not use, in Illinois, my motor vehicle. Therefore, because of the deemed lack of situs the State of Illinois has no ability to extract this use tax. I am aware of no authorities which contradict my reading of the SCRA.

Additionally, I believe the following code section applies to my situation, as I am on temporary orders to Illinois, which are revocable at any time: § 150.310 Exemptions to Avoid Multi-State Taxation a) To prevent actual or likely multi-state taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances: 1) The use, in this State, of tangible personal property acquired outside this State by a nonresident individual and brought into this State by such individual for his or her own use while temporarily within this State or while passing through this State.

Currently, no litigation or audit is pending with the Department. To the best of my knowledge, the Department has not previously ruled on the same or a similar issue for the taxpayer or a predecessor, nor has the taxpayer or any representatives previously submitted the same or a similar issue to the Department but withdrew it before a letter ruling was issued.

Please advise as to applicability of § 625 ILCS 5/3-1001 to my situation in a private letter ruling. If the form and substance of this letter is insufficient for your determination in a private letter ruling, please contact me. If you should have any questions, please feel free to contact me.

## **DEPARTMENT'S RESPONSE**

Under the Use Tax Act, a tax is imposed upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3; see 86 Ill. Adm. Code 150.101. In other words, the Use Tax applies when tangible personal property is purchased anywhere at retail from a retailer and brought into this State for use.

Please note that the Use Tax does not apply to the use, in this State, of tangible personal property acquired outside this State by a nonresident individual and brought into this State by such individual for his or her own use while temporarily within this State or while passing through this State. See 86 Ill. Adm. Code 150.310. In addition, the Use Tax does not apply to the use, in this State, of tangible personal property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who shall have used the property outside this State for at least 3 months before bringing the property to this State. See the enclosed copy of 86 Ill. Adm.

Code 150.315. Soldiers who are residents of other states and who temporarily reside in Illinois for military duty are generally considered nonresident individuals.

If tax is due, Illinois will give a credit for taxes properly due and paid in another state; however, no credit is given for taxes properly due and paid to a foreign government. See 86 Ill. Adm. Code 150.310. In addition, depreciation is allowed for out-of-State use. See 86 Ill. Adm. Code 150.110. Form RUT-25, Use Tax Return, is used to remit Use Tax to the Department if a new or used motor vehicle, watercraft, or aircraft is purchased from an out-of-State retailer.

If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk